

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 304 – SB 1192

March 28, 2017

SUMMARY OF ORIGINAL BILL: Makes various changes to the *Tennessee Securities Act of 1980*. Redefines “covered security” to reflect its meaning under federal law. Imposes a \$50 fee on any covered security, including a mutual fund or unit investment trust fund that files a change of name. Establishes a one-year effective period for Rule 506 of Regulation D exemption filings, and imposes a \$100 annual renewal fee.

Authorizes broker-dealers and investment advisers to delay disbursements from an account when such dealer or adviser reasonably believes the disbursement may result in exploitation of a designated adult and notifies those affected parties and the Commissioner of the Department of Commerce and Insurance (TDCI). Defines “designated adult” as an individual who is 65 years of age or older, or an individual who is 18 years of age or older and who, because of mental or physical dysfunction, is unable to manage such person’s own resources, carry out the activities of daily living, or protect against neglect or hazardous or abusive situations, without assistance from others. Increases the maximum civil penalties applicable to instances of financial exploitation of a designated adult through the sale or offer of securities.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue –
\$1,139,700/Recurring/General Fund

Increase State Expenditures –
\$3,200/One-Time/Department of Commerce & Insurance
\$122,100/Recurring/Department of Commerce & Insurance

The Governor’s Recommended Budget Document for FY17-18, on page A-38, includes recurring state revenue of \$1,139,900 to the General Fund, a recurring increase in state expenditures of \$141,200, and a one-time increase in state expenditures of \$6,300.

IMPACT TO COMMERCE OF ORIGINAL BILL:

Increase Business Expenditures - \$1,139,700/Recurring

SUMMARY OF AMENDMENT (006200): Deletes and replaces language in the original bill such that the only substantive change redefines what types of investments qualify as life settlement investments.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 48-1-107(m), the state currently has the authority to collect a name change fee from covered securities in the amount of \$50.
- This \$50 fee applies to registration statements, not notice filings.
- Based on information provided by the TDCI, the Department collected approximately \$123,800 in FY15-16 from name change fees. This amount included name change fees for mutual funds.
- This legislation will allow the TDCI to collect name change fees from unit investment trust funds.
- According to the TDCI, the average percentage of name change filings to the total number of mutual funds is approximately eight percent. This percentage is assumed to be applicable to unit investment trust funds.
- According to the TDCI, there are approximately 1,427 unit investment trust fund filings per year.
- An increase in name change filings of 114 ($1,427 \times 8.0\%$).
- A recurring increase in state revenue to the TDCI of \$5,700 ($114 \times \50).
- This legislation establishes a one-year effective period for Rule 506 of Regulation D exemption filings and imposes a \$100 annual renewal fee.
- Based on information provided by the TDCI, the average number of Regulation D exemption renewal filings will be approximately 11,340.
- A recurring increase in state revenue to the General Fund of \$1,134,000 ($11,340 \times \100).
- The total recurring increase in state revenue to the General Fund is estimated to be \$1,139,700 ($\$5,700 + \$1,134,000$).
- According to the TDCI, the Department will require two additional security examiner 2 positions to handle the increase in filings that are expected as a result of this legislation.
- Based on information provided by the Department of Finance and Administration, Division of Budget, funding for expenses related to these positions will be paid from various fees collected by the Tennessee Securities Division within the TDCI.
- A recurring increase in state expenditures to the TDCI of \$122,054 [$2 \times (\text{salary } \$42,800 + \text{benefits } \$10,753 + \text{FICA } \$3,274 + \text{office lease } \$2,000 + \text{phone/network } \$1,600 + \text{supplies } \$600)$] and one-time state expenditures to the TDCI of \$3,200 (office furniture \$2,000 + computer \$1,200).

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

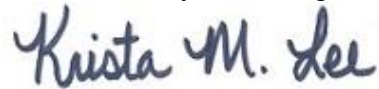
Unchanged from the original fiscal note.

Assumption for the bill as amended:

- This legislation will result in an increase in business expenditures for firms, brokers, and investment advisers equal to the amounts paid by such entities and occupations for filing name changes and Regulation D exemption renewals.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/jdb